not), the rule of lenity would foreclose NOW's astonishingly expansive and unprecedented misreading of the Hobbs Act:

> [W]e have instructed that ambiguity concerning the ambit of criminal statutes should be resolved in favor of lenity. . . . This interpretive guide is especially appropriate in construing . . . a predicate offense under RICO . . . .

Cleveland v. United States, 531 U.S. 12, 25 (2000) (internal quotation marks and citations omitted). *See also* Brief of Concerned Women for America as Amicus Curiae (Nos. 04-1244 & 04-1352) at 11-13 (more extended treatment of rule of lenity).

Rather than defend an indefensible misreading of the Hobbs Act, NOW simply contends that the question is premature.[6] The present case, however, at nineteen years of age, has long since passed the point at which NOW should be free to spend additional months and years pursuing frivolous theories of liability.

CONCLUSION

This Court should grant certiorari and summarily reverse the decision below. In the alternative, this Court should grant plenary review.

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[6] NOW asserts that "several factual determinations must first be made on remand." Opp. at 14. But the meritlessness of NOW's reading of the Hobbs act is a pure question of law. Moreover, the Seventh Circuit barred any reopening of the factual record in this issue. OR Pet. App. 7a-8a.

Respectfully submitted.

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May 23, 2005